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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,633	11/05/2003	Seo-Young Choi	6161.0110.US	5366

58027 7590 03/29/2006

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EXAMINER

HINES, ANNE M

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/700,633	Applicant(s) CHOI, SEO-YOUNG	
	Examiner Anne M. Hines	Art Unit 2879	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

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MARICELI SANTIAGO
PRIMARY EXAMINER

The claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed March 14, 2006 have been fully considered by have not been found persuasive.

Applicant argues that to establish a prima facie case of obviousness three criteria must be present: first a motivation to modify the reference, second a reasonable expectation of success, and third that the reference must disclose or suggest all of the claim limitations. Applicant argues that Juestel fails to teach all the claim limitations of claims 1, 4, 11, and 16. Specifically, Applicant argues that Figure 3 of Juestel shows chromaticity values for proportional combinations of the red phosphors $\text{Y(V,P)O}_4\text{:Eu}$ and $\text{(Y,Gd)O}_3\text{:Eu}$ and that these chromaticity points are outside the range of chromaticity coordinate values recited in claims 1, 4, 11, and 16. Applicant argues, therefore, that claims 1, 4, 11, and 16 are allowable.

The Examiner respectfully disagrees. Juestel teaches combinations of the red phosphors $\text{Y(V,P)O}_4\text{:Eu}$ and $\text{(Y,Gd)O}_3\text{:Eu}$ with up to 100% of either phosphor (Page 3, Paragraph [0041]). Juestel teaches using two phosphors which emit the same color in the same phosphor layer to mutually compensate the undesirable properties of the phosphors, which is a motivation to modify the amount of each phosphor (Page 1, Paragraph [0010]). And Juestel shows that modifying the amount of $\text{Y(V,P)O}_4\text{:Eu}$ in the mixture of $\text{Y(V,P)O}_4\text{:Eu}$ and $\text{(Y,Gd)O}_3\text{:Eu}$ shifts the chromaticity values for the mixture to lower x and higher y chromaticity values (i.e. toward the claimed range; See Fig. 3,

Art Unit: 2879

points 21 and 22; Page 3, Table 5) than the chromaticity values for (Y,Gd)O₃:Eu alone (Fig. 3, point 20), thus giving one of ordinary skill in the art a reasonable expectation of success that modifying the phosphor combinations of Juestel will result in the claimed properties recited in claims 1, 4, 11 and 16 for the claimed weight percentages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne M. Hines whose telephone number is (571) 272-2285. The examiner can normally be reached on Monday through Friday from 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anne M Hines
Patent Examiner
Art Unit 2879

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